

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

CECIL KOGER,
Plaintiff,

v.

GARY MOHR, *et al.*,
Defendants.

CASE NO. 4: 17CV2409

JUDGE BENITA Y. PEARSON

AFFIDAVIT OF AVIDAN Y.
COVER IN SUPPORT OF
PLAINTIFF CECIL KOGER'S
RESPONSE TO ORDER TO SHOW
CAUSE

Avidan Y. Cover, being first duly sworn according to law, deposes and states as follows:

1. I am a lawyer admitted to practice law in the States of Ohio, New York, and New Jersey. Since 2011, I have been employed as a professor at the Case Western Reserve University School of Law, where I teach in the Milton A. Kramer Clinic Center (the "Clinic"). In that capacity, I supervise third-year law students practicing as legal interns under Ohio Gov. Bar R. II.
2. Cecil Koger, the plaintiff in this action and an inmate of the Ohio Department of Rehabilitation and Correction's Trumbull Correctional Institution, has been a client of the Clinic since February 2017.
3. I filed Mr. Koger's complaint together with summons forms and a Motion to Proceed In Forma Pauperis on November 16, 2017. (ECF No. 1; ECF No. 2.)

4. On November 20, the Clinic sought the Defendants' agreement to waive service in keeping with Fed. R. Civ. P. 4(d). (Attached as Ex. B.)
5. On the following day, Senior Assistant Attorney General Thomas E. Madden agreed to waive service for all defendants employed with the Ohio Department of Rehabilitation and Correction. (Attached as Ex. C.)
6. On November 28, I filed electronically U.S. Marshal Form 285s for each defendant. (ECF No. 6.)
7. On or about November 28, the docket incorrectly indicated that the Court granted the Motion for In Forma Pauperis for Mr. Koger. (This is no longer reflected on the docket.)
8. The Clerk of Court's office then called the Clinic and informed me of the error. The Clerk further advised that Mr. Koger could not serve the Defendants until the Court granted the In Forma Pauperis.
9. On December 5, Mr. Madden provided by email completed waiver forms to file. (Attached as Ex. D.)
10. On December 11, the Clinic informed Mr. Madden that it could not file the waiver forms due to the Court's not having granted the In Forma Pauperis. (Attached as Ex. E.)
11. On February 2, the Court granted the In Forma Pauperis. (ECF No. 7.)
12. On February 8, I renewed the request to the Ohio Attorney General's Office that the Defendants waive service. (Attached as Ex. F.)

13. On February 20, Principal Attorney Mindy Worly at the Ohio Attorney General's Office informed me that she would not waive service. (*Id.*)
14. On February 22, the Clinic called the U.S. Marshal's Office in Youngstown regarding service but was informed that the office could not obtain the summonses and USM Form 285s from the electronic docket. The Clinic was directed to file hard copies of the summonses, USM Forms 285s, Complaint, and Motion to Proceed In Forma Pauperis with the U.S. Marshal's Office in Cleveland.
15. On February 23, the Clinic hand-delivered the requested documents to the Marshal's office. (Feb. 23, 2018 Letter to U.S. Marshal's Office, attached as Ex. G.)

FURTHER AFFIANT SAYETH NAUGHT.



AVIDAN Y. COVER
Attorney at Law

SWORN TO BEFORE ME and subscribed in my presence this 26th day of February, 2018.


NOTARY PUBLIC

Dated: February 26, 2018

CV-3690-PLDG-E-File-180226-Avidan Cover Affidavit Supporting Response to Order to Show Cause

GENEVA M. HARTFIELD
NOTARY PUBLIC • STATE OF OHIO
My commission expires Feb. 25, 2020

GENEVA M. HARTFIELD
NOTARY PUBLIC - STATE OF OHIO
My commission expires Feb. 28, 2020

